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Docket No.: 600.1189
Date: January 18, 2005

A-F

In re application of: Serge LANVIN, et al.
Serial No.: 09/994,394
Filed: 11/26/2001
For: A DEVICE FOR PERFORATING MATERIAL WEBS

S i r:

Transmitted herewith is a **Appellant's Brief Under 37 C.F.R. § 1.192 (9 pgs in triplicate)** in the above-identified application.

[ ] Also transmitted herewith are:
[ ] Petition for extension under 37 C.F.R. 1.136 (in duplicate)
[ ] Other:

[ ] Check(s) in the amount of **$0.00** is/are attached to cover:
[ ] Filing fee for additional claims under 37 C.F.R. 1.16
[ ] Petition fee for extension under 37 C.F.R. 1.136
[ ] Other: Fee for Appellant's Brief in Triplicate

[X] The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.

[X] Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
[X] Any patent application processing fees under 37 C.F.R. 1.17.
[X] Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

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I hereby certify that this correspondence and/or documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" in an envelope with sufficient postage addressed to "Commissioner for Patents, Alexandria, VA 22313-1450" on
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DAVIDSON, DAVIDSON & KAPPEL, LLC

BY: Jan Decker
Jan Decker

[600.1189]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

| | | |
|---|---|---|
| Re: | Application of: | Serge LANVIN, et al. |
| | Serial No.: | 09/994,394 |
| | Filed: | November 26, 2001 |
| | For: | A DEVICE FOR PERFORATING MATERIAL WEBS |
| | Art Unit: | 3724 |
| | Examiner: | HAMILTON, ISAAC N. |

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 18, 2005

**APPELLANTS' BRIEF UNDER 37 C.F.R. § 1.192**

Sir:

Appellants submit this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in support of their appeal of the Final Rejection dated October 23, 2003 in this application. An original and two copies of this brief are submitted herewith. The statutory fee has been paid with the Appeal Brief previously filed on March 24, 2004. If any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

1. REAL PARTY IN INTEREST

The real party in interest is Goss International Corporation, a U.S. corporation having a place of business at 2 Territorial Court, Bolingbrook, Illinois 60440-3557,

the assignee of the entire right, title and interest in the above-identified patent application. The invention was assigned by inventors Lanvin and Robert. The assignment was recorded on April 3, 2002 at reel 012786/ frame 0260.

2. RELATED APPEALS AND INTERFERENCES

Appellants, their legal representatives, and assignee are not aware of any appeal or interference that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.

3. STATUS OF CLAIMS

Claims 1 to 19 are pending. Claims 1 to 19 have been finally rejected as per the Final Office Action dated October 23, 2003.

The rejection to claims 1 to 19 thus is appealed. A copy of appealed claims 1 to 19 is attached hereto as Appendix A.

4. STATUS OF AMENDMENTS AFTER FINAL

A Response to the Final Office Action, without amendments, was filed on January 23, 2004 and was considered by the Advisory Action of February 25, 2004. Thus no amendments after final were presented or entered.

5. SUMMARY OF THE INVENTION

The present invention provides a perforating tool (e.g., 15 in Fig. 3, see, e.g., specification at page 8, lines 7 to 8) for perforating single or multiple layer material webs or sheets (e.g. 1, see, e.g., specification at page 7, lines 8 to 10) separated therefrom, the perforating tool (e.g., 15 in Fig. 3, see, e.g., specification at page 8, lines 7 to 8) comprising: a first section (e.g., 16 in Fig. 3, see, e.g., specification at page 8, lines 10 to 13) having a plurality of perforating teeth (e.g., 28 in Fig. 3, see, e.g., specification at page 8, lines 10 to 13) and a perforation-free gap (e.g., 18 in Fig. 3, see, e.g., specification at page 8, lines 18 to 19); and a second section (e.g., 17 in Fig. 3, see, e.g., specification at page 8, lines 25 to 26) having a cutting zone (e.g., 19 in Fig. 3, see, e.g., specification at page 8, lines 25 to 26) and at least one group of

perforating elements (e.g., 22 in Fig. 3, see, e.g., specification at page 8, lines 26 to 28) in alternating sequential fashion, the perforating elements (e.g., 22 in Fig. 3, see, e.g., specification at page 8, lines 26 to 28) being angled with respect to a longitudinal axis of the second section (e.g., 17 in Fig. 3, see, e.g., specification at page 8, lines 25 to 26); the first section (e.g., 16 in Fig. 3, see, e.g., specification at page 8, lines 10 to 13) being adjacent the second section (e.g., 17 in Fig. 3, see, e.g., specification at page 8, lines 25 to 26) at a fold center line (e.g., 29 in Fig. 5.1), the perforation-free gap (e.g., 18 in Fig. 3, see, e.g., specification at page 8, lines 18 to 19) of the first section extending from the fold center line (e.g., 29 in Fig. 5.1) to the plurality of perforating teeth (e.g., 28 in Fig. 3, see, e.g., specification at page 8, lines 10 to 13).

The angle of the perforating element preferably may be 30°, as discussed in the specification at page 4, lines 16 to 21.

The length of the first section and the second section may be the same, as recited in original claim 10, and as indicated by the terms half and center used throughout the specification.

6. ISSUES

Whether claims 1 to 6 and 8 to 19 should be rejected under 35 U.S.C. § 102(b) as being anticipated by Foster et al. (U.S. Patent No. 5,524,930) and whether claim 7 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Foster in view of Wadzinski (U.S. Patent No. 5,146,829).

7. GROUPING OF CLAIMS

Since the claims do not stand or fall together, the claims are grouped as follows:

GROUP I: Claims 1 to 4, 6 to 12, 14, 15, 17 and 18 directed to a perforating tool or device.

GROUP II: Claim 5 directed to the tool where the perforating lements are angled at 30 degrees.

GROUP III: Claim 13 directed to the tool where the first and second sections have an equal length.

GROUP IV: Claims 16 and 19 directed to the tool where the fold center line is at the center of two halves.

8. ARGUMENTS

GROUP I:

Claims 1 to 4, 6, 8 to 12, 14, 15, 17 and 18 of Group I were rejected under 35 U.S.C. §102(b) as being anticipated by Foster et al. (U.S. Patent No. 5,524,930). Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Foster in view of Wadzinski (U.S. Patent No. 5,146,829).

Claim 1 recites a perforating tool for perforating single or multiple layer material webs or sheets separated therefrom, the perforating tool comprising:

a first section having a plurality of perforating teeth and a perforation-free gap; and

a second section having a cutting zone and at least one group of perforating elements in alternating sequential fashion, the perforating elements being angled with respect to a longitudinal axis of the second section;

the first section being adjacent the second section at a fold center line, the perforation-free gap of the first section extending from the fold center line to the plurality of perforating teeth.

The Advisory Action states that the fold center line in Foster is at the right tip of element 16 in Fig. 1. This location clearly is not the fold center line for the tool in Foster, as the fold center line is actually in the middle of cutting edge 16, as shown clearly by the cut in Fig. 4, as the chopper fold line goes directly through the cut caused by element 16. See Foster at column 4, lines 30 to 44 for example.

Withdrawal of the rejection to claims 1, 14 and 15 and its dependent claims, including claim 7, for this reason is respectfully requested.

GROUP II:

Claim 5 was rejected under 35 U.S.C. §102(b) as anticipated by Foster.

Claim 5 recites that the angle of the perforating elements is 30°.

Foster discloses that its teeth are angled from 10 to 40 degrees. See column 4,

lines 19 and 20. However, within this wide range Foster does not teach or disclose the species of a 30 degree angle, which has particular advantages for the present invention as stated at [0012]. The limitation is clearly not anticipated, nor obvious. See MPEP 2131.03 and 2144.08.

Withdrawal of the rejection under 35 U.S.C. §102(b) is respectfully requested.

GROUP III

Claim 13 was rejected under 35 U.S.C. §102(b) as anticipated by Foster.

Claim 13 recites the perforating tool as recited in claim 1 "wherein a length of the first section and a length of the second section are the same."

The Final Office Action states that the lengths of the sections in Foster in Fig. 3 are the same. However, this is not shown at all in Fig. 3, as the full sections are not even shown, but rather only a partial view is shown.

Withdrawal of the rejection to claim 13 is respectfully requested.

GROUP IV

Claims 16 and 19 were rejected under 35 U.S.C. §102(b) as anticipated by Foster, and recite that the fold center line is at the center of two halves.

The Advisory Action states that center is a broad term that can be interpreted as a wide area between the edges of the tool, and that halves are not necessarily exact halves. However, this is not how one of skill in the art would interpret center reading the present specification and claims. In the Advisory Action interpretation, claims 16 and 19 would not add any limitation at all and would be superfluous.

However, applicant has specifically stated that as used in claims 16 and 19, the fold center line defines the center, i.e. the midpoint of the of tool, which is a commonly-accepted definition of center and the only one which makes sense in light of the present claims. Support for the claimed definition of center is found for example in original claim 13, which states that the sections are of equal length.

Withdrawal of the rejection to claims 16 and 19 for this reason as well is respectfully submitted.

Respectfully submitted,

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**APPENDIX A:**

PENDING CLAIMS 1 to 19 OF U.S.
APPLICATION SERIAL NO. 09/994,394

Claim 1 (previously presented): A perforating tool for perforating single or multiple layer material webs or sheets separated therefrom, the perforating tool comprising:

a first section having a plurality of perforating teeth and a perforation-free gap; and

a second section having a cutting zone and at least one group of perforating elements in alternating sequential fashion, the perforating elements being angled with respect to a longitudinal axis of the second section;

the first section being adjacent the second section at a fold center line, the perforation-free gap of the first section extending from the fold center line to the plurality of perforating teeth.

Claim 2 (previously presented): The perforating tool as recited in claim 1 wherein the perforation-free gap of the first section borders on the cutting zone of the second section.

Claim 3 (previously presented): The perforating tool as recited in claim 1 wherein the cutting zone borders, on one side, on the perforation-free gap and, on the other side, on the group of perforating elements.

Claim 4 (original): The perforating tool as recited in claim 1 wherein the perforating elements of the group are angled in relation to the axis at an angle of between 20° and 40°.

Claim 5 (original): The perforating tool as recited in claim 4 wherein the angle is 30°.

Claim 6 (previously presented): The perforating tool as recited in claim 1 wherein the at least one group includes two groups and the second section further includes cutting segments, in alternating sequential fashion, between the groups.

Claim 7 (previously presented): The perforating tool as recited in claim 1 wherein the perforating elements at a front edge and at a rear edge are symmetrically angled with respect to the axis.

Claim 8 (original): The perforating tool as recited in claim 1 wherein the perforating elements at a rear edge are angled on one side with respect to the axis.

Claim 9 (original): The perforating tool as recited in claim 1 wherein the perforating elements at a front edge are inclined with respect to the axis.

Claim 10 (previously presented): The perforating tool as recited in claim 1 wherein the perforating elements are configured as perforating tongues.

Claim 11 (previously presented): The perforating tool as recited in claim 10 wherein the perforating elements of the at least one group of perforating elements are separated by slit-shaped openings.

Claim 12 (previously presented): The perforating tool as recited in claim 1 wherein the perforating elements of the at least one group of perforating elements have a slanted surface at tips of the perforating elements.

Claim 13 (original): The perforating tool as recited in claim 1 wherein a length of the first section and a length of the second section are the same.

Claim 14 (previously presented): A perforating device in a folding apparatus arranged downstream of a web-processing rotary printing machine, the perforating device comprising: a perforating tool for perforating single or multiple layer material webs or sheets separated therefrom, the perforating tool including a first section having a plurality of perforating teeth and a perforation-free gap; and a second section having a cutting zone and at least one group of perforating elements in alternating sequential

fashion, the perforating elements being angled with respect to a longitudinal axis of the second section; the first section being adjacent the second section at a fold center line, the perforation-free gap of the first section extending from the fold center line to the plurality of perforating teeth.

Claim 15 (previously presented): A perforating tool for perforating single or multiple layer material webs or sheets separated therefrom, the perforating tool comprising:

a first section having a plurality of perforating teeth and a perforation-free gap; and

a second section having a cutting zone and a plurality of perforating elements angled with respect to the perforating tool and arranged in the second section in sequential rows;

the first section being adjacent the second section so as to define a fold line, the perforation-free gap of the first section extending from the fold center line to the plurality of perforating teeth.

Claim 16 (previously presented): The perforating tool as recited in claim 1 wherein the fold center line is located at the center of the tool.

Claim 17 (previously presented): The perforating tool as recited in claim 1 wherein the plurality of perforating teeth are separated by spaces, the perforation-free gap being wider than the spaces.

Claim 18 (previously presented): The perforating tool as recited in claim 1 wherein the cutting zone borders the perforation-free gap at the fold center line.

Claim 19 (previously presented): The perforating tool as recited in claim 1 wherein the first section defines a first half of the tool and the second section defines a second half of the tool, the fold center line separating the first and second halves.